

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT.

Receipt # 2208041

Book Page CIVIL

No. Pages: 16

Instrument: EFILING INDEX NUMBER

Control #: 201909130016

Index #: E2019008707

Date: 09/13/2019

Time: 6:11:57 AM

Return To:
PAUL JAMES HANLY JR
One Court Street
Alton, IL 62002

DuPre, Carol

The Diocese of Rochester
Saint Gregory's Roman Catholic Church of Marion, New York
The Parish of St. Katharine Drexel, Wayne County NY

State Fee Index Number	\$165.00	
County Fee Index Number	\$26.00	
State Fee Cultural Education	\$14.25	
State Fee Records Management	\$4.75	Employee: JM
Total Fees Paid:	\$210.00	

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

CAROL DUPRÉ f/k/a CAROL BENEDETTI,

Index No.

Plaintiff(s),

*-against-*THE DIOCESE OF ROCHESTER; SAINT GREGORY'S
ROMAN CATHOLIC CHURCH OF MARION, NEW YORK;
and THE PARISH OF ST. KATHARINE DREXEL, WAYNE
COUNTY NY,*Summons*

Date Index No. Purchased:

September 12, 2019

Defendant(s).

To the above named Defendant(s)

The Diocese of Rochester
1150 Buffalo Road, Rochester, Monroe County, New York

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is one or more Defendant resides in Monroe County
which is which is located in Monroe County, New York

Dated: New York, New York

September 12, 2019

SIMMONS HANLY CONROY LLC

by

Paul J. Hanly, Jr.

Attorneys for Plaintiff

112 Madison Avenue, 7th Floor
New York, New York 10016
Tel.: 212-784-6401
Facsimile: 212-213-5949
phanly@simmonsfirm.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

CAROL DUPRÉ f/k/a CAROL BENEDETTI,

Index No.

Plaintiff(s),

Summons

-against-

THE DIOCESE OF ROCHESTER; SAINT GREGORY'S
ROMAN CATHOLIC CHURCH OF MARION, NEW YORK;
and THE PARISH OF ST. KATHARINE DREXEL, WAYNE
COUNTY NY,

Date Index No. Purchased:

September 12, 2019

Defendant(s).

To the above named Defendant(s)

Saint Gregory's Roman Catholic Church of Marion, New York
3799 Union Street, Marion, Wayne County, New York.

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is one or more Defendant resides in Monroe County
which is which is located in Monroe County, New York

Dated: New York, New York

September 12, 2019

SIMMONS HANLY CONROY LLC

by

Paul J. Hanly, Jr.

Attorneys for Plaintiff

112 Madison Avenue, 7th Floor
New York, New York 10016
Tel.: 212-784-6401
Facsimile: 212-213-5949
phanly@simmonsfirm.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

CAROL DUPRÉ f/k/a CAROL BENEDETTI,

Index No.

Plaintiff(s),

*-against-*THE DIOCESE OF ROCHESTER; SAINT GREGORY'S
ROMAN CATHOLIC CHURCH OF MARION, NEW YORK;
and THE PARISH OF ST. KATHARINE DREXEL, WAYNE
COUNTY NY,*Summons*

Date Index No. Purchased:

September 12, 2019

Defendant(s).

To the above named Defendant(s)

The Parish of St. Katharine Drexel, Wayne County NY
136 Church Street, Palmyra, Wayne County, New York.

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is one or more Defendant resides in Monroe County
which is which is located in Monroe County, New York

Dated: New York, New York

September 12, 2019

SIMMONS HANLY CONROY LLC

by

Paul J. Hanly, Jr.

Attorneys for Plaintiff

112 Madison Avenue, 7th Floor
New York, New York 10016
Tel.: 212-784-6401
Facsimile: 212-213-5949
phanly@simmonsfirm.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

CAROL DUPRÉ f/k/a CAROL BENEDETTI,

Plaintiff,

v.

THE DIOCESE OF ROCHESTER; SAINT GREGORY'S ROMAN
CATHOLIC CHURCH OF MARION, NEW YORK; and THE
PARISH OF ST. KATHARINE DREXEL, WAYNE COUNTY
NY,

Defendants.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Carol DuPré, formerly known as Carol Benedetti, by her attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against The Diocese of Rochester; Saint Gregory's Roman Catholic Church of Marion, New York; and The Parish of St. Katharine Drexel, Wayne County NY, and alleges, on personal knowledge as to herself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that the Defendants reside in New York.

2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

3. Venue for this action is proper in the County of Monroe pursuant to CPLR 503 in that one or more of the Defendants reside in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County.

PARTIES

4. Plaintiff Carol DuPré, formerly known as Carol Benedetti ("Plaintiff") is

an individual residing in Spencerport, Monroe County, New York.

5. Defendant The Diocese of Rochester ("Diocese of Rochester") is a religious corporation organized pursuant to the New York Religious Corporations Law, with its principal office at 1150 Buffalo Road, Rochester, Monroe County, New York. The Diocese of Rochester is a Roman Catholic diocese. At all relevant times, the Diocese of Rochester created, oversaw, supervised, managed, controlled, directed and operated parishes or churches of the Diocese of Rochester, including during all relevant times, Saint Gregory's Roman Catholic Church of Marion, New York; and The Parish of St. Katharine Drexel, Wayne County NY.

6. Defendant Saint Gregory's Roman Catholic Church of Marion, New York ("St. Gregory's") was a Roman Catholic Parish within and under the authority of the Diocese of Rochester and was a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 3799 Union Street, Marion, Wayne County, New York. At all relevant times, the Diocese of Rochester created, oversaw, supervised, managed, controlled, directed and operated St. Gregory's.

7. Defendant The Parish of St. Katharine Drexel, Wayne County NY ("St. Katharine Drexel") is a Roman Catholic Parish within and under the authority of the Diocese of Rochester and is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 136 Church Street, Palmyra, Wayne County, New York. At all relevant times, the Diocese of Rochester created, oversaw, supervised, managed, controlled, directed and operated St. Katharine Drexel. As a result of a corporate merger, Defendant St. Katharine Drexel is the legal successor to Defendant St. Gregory's.

FACTS COMMON TO ALL CLAIMS

8. In or about 1962, Plaintiff and her family were parishioners of and attended St. Gregory's when Plaintiff was a child.

9. During the times relevant to the allegations set forth herein, Father G.

Stuart Hogan ("Father Hogan") was assigned by Defendant Diocese of Rochester to be the pastor of St. Gregory's, where Plaintiff's family were parishioners. Father Hogan died in 1985.

10. Through his positions at, within, or for the Defendants Diocese of Rochester and St. Gregory's, Father Hogan was put in direct contact with members of the Plaintiff's family, including Plaintiff, a minor parishioner of the Diocese of Rochester.

11. From approximately 1962 when Plaintiff was approximately fifteen years of age, to approximately 1963 when Plaintiff was approximately sixteen years of age, Plaintiff would help Father Hogan count the church offering in the rectory of St. Gregory's.

12. Father Hogan used such encounters, gained through his position at St. Gregory's which granted him access to Plaintiff when Plaintiff was approximately fifteen to sixteen years of age, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff in violation of the laws of the State of New York.

Defendants' Responsibility for the Abuse Committed by Father Hogan

13. At all times material hereto, Father Hogan was under the management, supervision, employ, direction and/or control of Defendants Diocese of Rochester and St. Gregory's.

14. Defendants Diocese of Rochester and St. Gregory's had the duty to reasonably manage, supervise, control and/or direct priests who served at St. Gregory's, and specifically, had a duty not to aid pedophiles such as Father Hogan by assigning, maintaining, and/or appointing them to positions with access to minors.

15. Defendants Diocese of Rochester and St. Gregory's knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Hogan, who sexually abused Plaintiff.

16. Defendant Diocese of Rochester had a duty to the Plaintiff to properly

supervise Diocese of Rochester priests to ensure that priests did not use their positions with the Diocese of Rochester as a tool for grooming and assaulting vulnerable children. Defendant Diocese of Rochester knew or should have known that Father Hogan used his positions with the Diocese of Rochester to sexually abuse minor children, including the Plaintiff.

Consequences of the Abuse

17. Plaintiff suffered personal physical and psychological injuries and damages as a result of Father Hogan's actions, as well as other damages related thereto, as a result of the childhood sexual abuse Plaintiff sustained.

18. As a direct result of the Defendants Diocese of Rochester's and St. Gregory's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Hogan's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm she suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

19. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

20. Defendants Diocese of Rochester and St. Gregory's owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Father Hogan in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Hogan did not use his

assigned position to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

21. Defendant Diocese of Rochester at all relevant times held the parishes of the Diocese of Rochester out to be safe places for minors to attend, and its priests as individuals to whom it was safe to entrust the care of minor children. Defendant Diocese of Rochester entered into an express and/or implied duty to safely treat Plaintiff and assumed the duty to protect and care for her.

22. Father Hogan sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff at the rectory of St. Gregory's.

23. Defendants Diocese of Rochester and St. Gregory's negligently hired, retained, directed, and supervised Father Hogan, though they knew or should have known that Father Hogan posed a threat of sexual abuse to minors.

24. Defendants Diocese of Rochester and St. Gregory's knew or should have known of Father Hogan's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

25. Defendants Diocese of Rochester and St. Gregory's were negligent in failing to properly supervise Father Hogan.

26. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

27. At all times material hereto, Defendants Diocese of Rochester's and St. Gregory's actions were willful, wanton, malicious, reckless, negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

28. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

29. Liabilities of St. Gregory's were transferred to, or assumed by, St. Katharine Drexel. As a result, St. Katharine Drexel is liable to the Plaintiff for the damages caused by St. Gregory's stated in this cause of action.

30. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

31. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

32. Defendants Diocese of Rochester and St. Gregory's knew, or were negligent in not knowing, that Father Hogan posed a threat of sexual abuse to children.

33. The acts of Father Hogan described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendants Diocese of Rochester and St. Gregory's.

34. Defendants Diocese of Rochester and St. Gregory's owed Plaintiff, a minor at the relevant times of abuse, a duty to protect her from Father Hogan's sexual deviancy and the consequential damages, both prior to and/or subsequent to Father Hogan's misconduct.

35. Defendants Diocese of Rochester's and St. Gregory's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

36. Defendants Diocese of Rochester and St. Gregory's:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of Father Hogan;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other

tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and

- d. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint to occur.

37. At all times material hereto, with regard to the allegations contained herein, Father Hogan was under the supervision, employ, direction and/or control of Defendants Diocese of Rochester and St. Gregory's.

38. At all times material hereto, Defendants Diocese of Rochester's and St. Gregory's actions were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

39. As a direct and/or indirect result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

40. Liabilities of St. Gregory's were transferred to, or assumed by, St. Katharine Drexel. As a result, St. Katharine Drexel is liable to the Plaintiff for the damages caused by St. Gregory's stated in this cause of action.

41. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION

Breach of Non-Delegable Duty

42. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

43. Plaintiff, when she was a minor, was placed in the care and supervision of the Defendants Diocese of Rochester and St. Gregory's for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to participate in religious,

educational, youth and recreational activities. There existed a non-delegable duty of trust between Plaintiff and Defendants Diocese of Rochester and St. Gregory's.

44. Plaintiff was a vulnerable child when placed within the care of Defendants Diocese of Rochester and St. Gregory's.

45. As a consequence, Defendants Diocese of Rochester and St. Gregory's were in the best position to prevent Plaintiff's abuse, to learn of Father Hogan's repeated sexual abuse of Plaintiff, and to stop it.

46. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendants Diocese of Rochester and St. Gregory's, Defendants Diocese of Rochester and St. Gregory's breached their non-delegable duty to Plaintiff.

47. At all times material hereto Father Hogan was under the supervision, employ, direction and/or control of the Defendants Diocese of Rochester and St. Gregory's.

48. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer injuries and damages described herein.

49. Liabilities of St. Gregory's were transferred to, or assumed by, St. Katharine Drexel. As a result, St. Katharine Drexel is liable to the Plaintiff for the damages caused by St. Gregory's stated in this cause of action.

50. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

Breach of Fiduciary Duty

51. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

52. There exists a fiduciary relationship of trust, confidence, and reliance

between Plaintiff and Defendants Diocese of Rochester and St. Gregory's. This relationship is based on the entrustment of the Plaintiff while she was a minor child to the care and supervision of the agent or servant of the Defendants Diocese of Rochester and St. Gregory's. This entrustment of the Plaintiff to the care and supervision of the Defendants Diocese of Rochester and St. Gregory's, while the Plaintiff was a minor child, required the Defendants Diocese of Rochester and St. Gregory's to assume a fiduciary relationship and to act in the best interests of the Plaintiff, as well as to protect her while she was a minor and vulnerable child.

53. Pursuant to their fiduciary relationship, Defendants Diocese of Rochester and St. Gregory's were entrusted with the well-being, care, and safety of Plaintiff.

54. Pursuant to their fiduciary relationship, Defendants Diocese of Rochester and St. Gregory's assumed a duty to act in the best interests of Plaintiff.

55. Defendants Diocese of Rochester and St. Gregory's breached their fiduciary duty to Plaintiff.

56. At all times material hereto, the actions and/or inactions of Defendants Diocese of Rochester and St. Gregory's were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff.

57. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

58. Liabilities of St. Gregory's were transferred to, or assumed by, St. Katharine Drexel. As a result, St. Katharine Drexel is liable to the Plaintiff for the damages caused by St. Gregory's stated in this cause of action.

59. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION**Negligent Infliction of Emotional Distress**

60. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

61. As described above, the actions of Defendants Diocese of Rochester and St. Gregory's, their agents, servants, and/or employees were conducted in a negligent and/or grossly negligent manner.

62. Defendants Diocese of Rochester's and St. Gregory's actions endangered Plaintiff's safety and caused her to fear for her own safety.

63. As a direct and proximate result of Defendants Diocese of Rochester's and St. Gregory's actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

64. Liabilities of St. Gregory's were transferred to, or assumed by, St. Katharine Drexel. As a result, St. Katharine Drexel is liable to the Plaintiff for the damages caused by St. Gregory's stated in this cause of action.

65. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION**Breach of Duty *in Loco Parentis***

66. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

67. While she was a minor, Plaintiff was entrusted by her parents to the control of the Defendants Diocese of Rochester and St. Gregory's, as well as directly to Father Hogan, an agent or servant of Defendants Diocese of Rochester and St. Gregory's, for the purposes of *inter alia*, providing Plaintiff with appropriate guidance and an opportunity

to enjoy educational and youth activities under responsible adult supervision. These Defendants owe — and owed — a duty to children entrusted to them to act *in loco parentis* and to prevent foreseeable injuries.

68. Defendants Diocese of Rochester and St. Gregory's breached their duty to act *in loco parentis*.

69. At all times material hereto, Defendants Diocese of Rochester's and St. Gregory's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

70. As a direct result of Defendants Diocese of Rochester's and St. Gregory's conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

71. Liabilities of St. Gregory's were transferred to, or assumed by, St. Katharine Drexel. As a result, St. Katharine Drexel is liable to the Plaintiff for the damages caused by St. Gregory's stated in this cause of action.

72. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE Plaintiff, demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proved at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law; and
- E. Awarding such other and further relief as to this Court may seem just and

proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: September 12, 2019
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr.
Paul J. Hanly, Jr.
phanly@simmonsfirm.com
Jayne Conroy
jconroy@simmonsfirm.com
Andrea Bierstein
abierstein@simmonsfirm.com
SIMMONS HANLY CONROY LLC
112 Madison Avenue
New York, NY 10016
(212) 784-6401 Telephone
(212) 213-5949 Facsimile

Attorneys for Plaintiff

Of counsel:
Mitchell Garabedian
mgarabedian@garabedianlaw.com
William H. Gordon
wgordon@garabedianlaw.com
LAW OFFICES OF MITCHELL GARABEDIAN
100 State Street, 6th Floor
Boston, MA 02109
Phone: (617) 523-6250